

## BOOTLEGGER LIABLE TWICE IN ONE CRIME

Both State and Nation Can Prosecute Same Offense, Taft Rules.

## NOT 'DOUBLE JEOPARDY'

Says Bar Against Federal Suits Would Rob Dry Act of Potency.

Special Dispatch to THE NEW YORK HERALD.

New York Herald Bureau.

Washington, D. C., Dec. 11.

The drys won a victory today when the Supreme Court, in an opinion by Chief Justice Taft, ruled that conviction under a State prohibition law is not a bar to a prosecution for the same offense in the United States courts under the Federal prohibition law. The decision came on an appeal by Arthur Magrini and four codefendants who were charged in the United States Court of Washington State with "making, transporting and possessing liquors and operating a still."

Their counsel contended that the same charges had been made against them in the Supreme Court of Washington county, a State tribunal, and that each had been fined \$500 on three counts. They argued in the Supreme Court that two punishments for the same act—one under the national prohibition laws and another under the State prohibition meant double jeopardy, and it was a violation of the basic law of the nation.

In reversing the decision of the lower court (Western District of Washington) Chief Justice Taft said in part:

"An act denounced as a crime by both national and State sovereignties is an offense against the peace and dignity of both, and may be punished by each. The Fifth Amendment, like all guarantees in the first eight amendments, applies only to proceedings by the Federal Government, and the double jeopardy therein forbidden is a second prosecution under authority of the Federal Government after a first trial for the same offense under the same authority."

"Here the same act was an offense against the State of Washington because a violation of its law and also an offense against the United States under the national prohibition act. The defendants thus committed two different offenses by the same act and a conviction by a court of Washington of this offense against the State is not a conviction of the different offense against the United States and so is not double jeopardy."

"If the Congress sees fit to bar prosecution by the Federal courts for any act when punishment for violation of State prohibition has been imposed it can of course do so by proper legislative provision, but it has not done so. If a State were to punish the manufacture, transportation and sale of intoxicating liquor by small or nominal fines the race of offenders to the courts of that State to plead guilty and secure immunity from Federal prosecution for such acts would not make for respect for the Federal statute or for its deterrent effect."

"But it is not for us to discuss the wisdom of legislation. It is enough for us to hold that in the absence of special provision by Congress conviction and punishment in a State court under a State law for marketing, transporting and selling intoxicating liquors is not a bar to a prosecution in a court of the United States under the Federal law for the same acts."

## Bermuda Ship Brings Load of Golf Players

THE Furness-Bermuda liner Fort St. George, in yesterday from the island of Bermuda, carried 153 passengers and the biggest bunch of golf bags—133 all told—that ever arrived here in one ship. Customs men suspected that the bags might contain other things besides mere golf sticks, possibly done up in metal flasks, but their searching disclosed nothing except stuff that might be used at a tee.

Among the liner's passengers was Sir Edward Bowring, vice-president of Bowring Brothers, Liverpool.

## DRY SHAKEUP HITS BROOKLYN FORCES

John S. Green Succeeds W. B. Lord as Chief and Many Agents Will Go.

E. C. Yellowley, acting State Prohibition Director, yesterday began a shakeup and reorganization of the prohibition enforcement forces in Brooklyn by appointing John C. Green to succeed William B. Lord, who has been chief of the bureau for more than a year. Mr. Lord and John Davis, his first assistant, were transferred to the Manhattan office, and it is expected that other members of the Brooklyn force will either be dismissed or sent to other fields.

Numerous complaints have been received by Mr. Yellowley that the agents attached to the Brooklyn headquarters, which covers Kings, Queens, Nassau, Suffolk and Richmond counties, had not been overactive of late owing to various reasons. It is known that Mr. Lord, who has been on the prohibition force for two years as a trusted servant, has not had enough men to work under him, and also has been hampered by certain political factions.

It is reported that the change in administration is partially due to the fact that the agents are so well known that it is difficult for them to make arrests and procure the proper evidence. In taking office Mr. Green, who has been a prohibition agent for two years and lives in Queens county, said:

"I was sent here by Mr. Yellowley to reorganize the Brooklyn office and enforce the law. I have no criticism to make of my predecessor, who with the limited number of men on his staff was not able to cover the district. I expect to have the staff very materially increased. It will take a few days to become familiar with the office and then I expect to produce results."

Fire Department Orders

SPECIAL ORDER NO. 221.

I. The following member of the department having been tried before the Hon. Joseph M. Hannan, Deputy Fire Commissioner, November 24, 1922, for violation of rules and regulations, 1912, the following decision is hereby rendered by the Fire Commissioner:

Fireman first grade Daniel J. Taylor, Engine Company 153. Charges: (1) Absence without leave; (2) feigned illness. First charge, guilty; fined one day's pay. Second charge, guilty; fined one day's pay. Total fine, two days' pay.

II. The following members of the department having been tried before the Hon. Joseph M. Hannan, Deputy Fire Commissioner, December 6, 1922, for violation of rules and regulations, 1912, the following decisions are hereby rendered by the Fire Commissioner:

Lieut. James H. Owens, Engine Company

88. Charge: Absence without leave. Guilty; reprimanded and warned.

Fireman first grade John V. Hufnagel, Engine Company 81 (now in Engine Company 79). Charge: Disobedience of orders. Guilty; fined one day's pay and transferred.

III. Transfer to take effect at 9 A. M., December 12, 1922: Fireman first grade John V. Hufnagel, Engine 79, to Engine 80.

IV. Special leaves of absence are hereby granted to the following members of the department: Capt. John J. Cashman, Engine Company 274, for 9 hours, from 9 A. M., December 12, 1922; Lieut. Charles H. Riley, Engine Company 281, for 9 hours, from 9 A. M., December 14, 1922; fireman first grade Albert E. Guinness, Engine Company 79, for 9 hours, from 9 A. M., December 13, 1922; fireman first grade Henry G. Stein, Engine Company 71, for 6 hours, from 9 P. M., December 11, 1922.

By order of the Fire Commissioner, JOHN KENLON, Chief of Department.

## Police Department Orders

SPECIAL ORDERS NO. 222.

1.—The following member of the force is relieved and dismissed from the police force and placed on the roll of the police pension fund and is directed to take effect 12 P. M., December 9, 1922:

PATROLMAN.

John A. Mullane, shield No. 7552, 1024 precinct, on police surgeon's certificate, at \$918 per annum. Appointed February 2, 1907.

2.—The following transfers and assignments are ordered to take effect at 8 A. M., December 11, 1922:

SERGEANTS.

William J. Cassidy, from twenty-third precinct to motorcycle squad No. 1, assigned to motorcycle duty. Edward H. Walsh, headquarters division, Bureau of Public Safety, designated as acting lieutenant.

To take effect 8 A. M., December 16, 1922: PATROLMEN.

Harry Johann, from 1254 precinct to first inspection district, assigned to duty in plain clothes.

From precincts indicated to 10th inspection district, assigned to duty in plain clothes: George L. Shannon, 79; Harry Sullivan, 93.

TEMPORARY ASSIGNMENTS.

PATROLMEN.

James Brennan, 12th precinct, assigned to day tour and excused from reserve duty for thirty days, from 8 A. M., December 14, 1922.

John G. P. Schmauder, 26th precinct, to Detective Division, for 18 days, from 8 A. M., December 13, 1922.

Charles J. Ryan, 53d precinct, to Detective Division, for 18 days, from 8 A. M., December 13, 1922.

Isaac Mindheim, 35d precinct, to Detective Division, for 18 days, from 8 A. M., December 13, 1922.

John G. P. Schmauder, 26th precinct, to Detective Division, for 18 days, from 8 A. M., December 13, 1922.

George J. Scott, 112th precinct, to Headquarters Division, chief four, for 18 days, from 8 A. M., December 13, 1922.

The following member of the force has been designated to receive extra compensation of \$240 per annum, to take effect 8 A. M., December 11, 1922:

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William J. Cassidy, from twenty-third precinct to motorcycle squad No. 1, assigned to motorcycle duty. Edward H. Walsh, headquarters division, Bureau of Public Safety, designated as acting lieutenant.

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## NIXON'S OLD YACHT BURNS.

PERIT AMBROSE, N. J., Dec. 11.—Fire of unknown origin burned the yacht Louisa, owned by John Hughes of New Brunswick, to the water line while she was anchored in Raritan Bay to-day.

She was formerly the property of Lewis Nixon and was purchased by Mr. Hughes a year ago from the Nixon Nit